

CITY OF NEWTON

BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, JUNE 20, 2007

Present: Ald. Johnson (Chairman), Hess-Mahan (Vice Chairman), Baker, Lipof, Merrill, Sangiolo; Absent: Ald. Coletti, Parker

Also Present: Ald. Albright, Fischman, Harney

Others Present: Lt. Edward Aucoin, (Police Dept.), Off-Leash Dog Park Task Force Members, Norm Richardson (Conservation Commission), Richard Tucker (Citizen Representative), Jeff Young (Superintendent of Schools), Dori Zaleznik (Chairman, School Committee), Karyn Dean (Committee Clerk)

REFERRED TO PROGRAMS & SERVICES AND PUBLIC FACILITIES COMMITTEE

#205-07 SUPERINTENDENT YOUNG requesting vote of the Board of Aldermen to complement the vote of the School Committee to instruct him to submit a statement of interest to the School Building Authority by July 31, 2007. [06-08-07 @ 9:52 AM]

ACTION: **PUBLIC FACILITIES APPROVED 6-0 (Mansfield not voting) APPROVED 4-0-1 (Ald. Johnson abstaining, Lipof not voting)**

NOTE: **Please refer to Public Facilities Report**

REFERRED TO PROGRAMS AND SERVICES COMMITTEE

#242-03 ALD. JOHNSON, SAMUELSON AND SANGIOLO requesting a discussion to determine times and places where dogs may be off leash on public grounds excluding schoolyards.

ACTION: **HELD 5-0 (Ald. Sangiolo not voting)**

NOTE:

Overview of the Dogs Off-Leash Task Force Report

Members of the Dogs Off-Leash Task Force were in attendance to present their findings to the Committee. Ald. Albright began by stating that one thing they found was that there were dogs all over Newton off-leash even though it's not legal. The Task Force has concluded the following:

- They'd like a trial run and to create an Advisory Committee.

- The Planning Department has agreed to have the Advisory Committee under their umbrella. The functions of the Advisory Committee would be:
 - to advise the land owners (The Conservation Commission and The Parks and Recreation Commission)
 - to take applications from groups interested in sponsoring an area to become off-leash for some designated times and determine if the area is appropriate for this purpose. These groups would take responsibility for any problems that might be caused by off-leash dogs.
 - to provide a liaison representative to work with the City to make sure there was communication between the City and the Advisory Committee.
 - to be in charge of keeping a log of complaints and monitor how the plan is working.
 - to make a report six months before the end of the 2-year pilot program to the land owners as to whether they felt the ordinance should be terminated, renewed or advised.
- The custodial agencies would have the right to pull the plug on any location that was experiencing difficulties.
- Enforcement would be an issue because people would need to be reminded of where and when dogs can and cannot be off-leash.

Review by Commissions

Ald. Johnson had wanted to be sure that, even though they had representatives of the Conservation Commission and Parks and Recreation, the final draft ordinance would be reviewed by them. Ald. Albright said the Task Force went to both Commissions twice for feedback. The Commissions asked for changes and she felt at this point that the concerns were addressed and most members were satisfied enough to move forward for a trial. There was one member of the Task Force, Paula Palumbo, who stopped coming several months ago and she sent an email to Ald. Albright saying that she was not in favor of any change to the current ordinance.

Sites

Ald. Fischman said the Task Force had started to consider sites and found it difficult, but in the end, they felt it wasn't their responsibility. They felt their role was legislative and that it belonged in the hands of the landowners to determine which sites would be used. Ald. Hess-Mahan said that he had hoped that some sites would have been recommended. Ald. Merrill said that he noticed since this issue had been brought to the attention of the public that more dog owners were being more responsible with their dogs and cleaning up after them. He was concerned that the dogs not be on Little League fields and that

they don't conflict with the needs of the children in the community. Ald. Albright said that the chances were good that the Advisory Committee would exclude Little League fields from this use. Ald. Johnson said they need to think outside the box and look at smart ways to use the various fields and parks based on the time of year and the other uses by the City.

Associated Costs

Ald. Albright said that Parks and Recreation was concerned about the impact of any additional costs on the budget. Sandy Pooler told her that the extra costs were associated with trash buckets, signs, and educational materials and that he could come up with about \$10,000 to cover these costs. It was agreed that a small budget would be necessary.

Surrounding Community's Models

Ald. Hess-Mahan was interested in what other communities were doing. He was impressed with the Brookline model. In order to keep the parks open to dogs off-leash, people had to commit to self-policing and it seems to work quite well. The Task Force said they have seen Needham, Wellesley, and Brookline doing well. Ald. Albright said that their recommendation was a hybrid model. It was not as onerous as the Boston with all the rules it required, and not quite as hands-off as the Brookline model. Dick Turner said that Brookline has 12 or 13 parks and they have different times of the week and weekends with varying times depending on the season. The key in Brookline is if people don't keep it clean and behave properly, their permission is cancelled. Then enforcement is extremely important because if you cancel permission but don't enforce that, it has no effect. There were parks that were taken off line because they got too congested.

Make up of the Advisory Committee

President Baker commended the Task Force on their work. He felt the appointment of the Committee was very important but was concerned that the ordinance required that members would only be allowed to be on for a year. He felt it shouldn't be that limited. He recommended amending the draft to fit the way they appointed the Committee to begin with which was nominations from members of the Board to him, and then he made recommendations. He felt the institutional knowledge was quite valuable and having members stay on longer made more sense. He also thought it was important for the Committee not to be viewed as a representative of the dog owners. The Committee coming back as "non-dog owners" recommending that this project go forward held more weight because they were representing the community at large. Therefore, he felt the make up of the Advisory Committee needed a small adjustment in the draft ordinance. Ald. Johnson's concern was that the dog owners themselves should have input and be represented. She felt that at least the dialogue should begin with the Committee and there may be opportunity for a larger meeting with dog owners as well.

Education and Enforcement

Ald. Hess-Mahan said he'd like to hold this item and come back to it. In the meantime he'd like some public process to get the input and reaction from dog owners, and anyone who's interested. He recognized all the good work that the Task Force has done. Ald. Fischman reiterated that enforcement was an important factor. He also pointed out that

public education would be necessary to make this work best. Ald. Hess-Mahan said he'd like to work out the issues of enforcement. He didn't want to get into a situation where it was all complaint driven with calls to the animal officer. Ald. Albright said that enforcement would first start with education so that people can understand where and when they can be with their dogs off leash. Ald. Johnson said she would like to focus on the positive and find out what is working well and use that as a tool to help Newton.

Ald. Baker said that part of the challenge is the constituency that feels their use of the parks and/or fields are in conflict with dogs being off leash. There is a problem of owners not picking up after their dogs and dogs scaring children or others who may not be as comfortable around dogs. Ald. Sangiolo and Ald. Lipof agreed that fencing the dog parks was a good idea. Ald. Albright thought that CPA funds might be available to put up fences because it could be considered a "new use" and therefore qualify. It was felt that it was important to hear from dog owners but equally important to hear from other users of these spaces. Ald. Johnson said they had an open meeting in the past and feels that it would be a good idea to have another meeting.

Public Comment

Ald. Johnson invited members of the public to comment.

Ann Dorfman of 9 Henshaw Street addressed the Committee. She said she started working on this issue in 1996 and has been invested in it. She said there was a public hearing in 2003 and that Ald. Coletti told her it was the largest public hearing he had ever seen. She said she was conflicted with the results of the Task Force but she very much valued the time and energy they had put into it. She felt it was not about dog owners per se, but an issue of how to make the parks better for everyone. The problem is that people who don't want to be around dogs, don't know how to avoid them. The dog owners are pretty much happy right now because they get to go anywhere they want, anytime. She felt that the Task Force was not charged with creating more freedoms for dog owners, but creating a better community for all people. The non-dog owners are the one's having their enjoyment of the parks compromised.

She said that this process has not been open to dog owners. And there are no people on the Task Force representing the dog owners. Ald. Baker noted that at meetings he'd attended, the chairman had extended the floor to her and brought her into the process. She said she only represented herself, not Newton Dogs. She felt that this model would not be successful and she would not petition her park to be part of this. It would become overrun if not enough parks were brought online.

Ald. Baker asked what her recommendation would be for a different model. She said that there needs to be sufficient buy-in by all parties and more groundwork and documentation provided. She felt they needed to know where this was a problem and where it wasn't a problem. Enforcement in times and places where it's a problem is appropriate, but in times and places where it doesn't have any effect on others isn't appropriate or necessary. Ald. Albright said that some places are being overused like

Norumbega and Cabot parks and so changes need to be made, and she felt this plan was a good way to start.

Susan Sullivan of 7 Lind Road said she came to all of the meetings in 2002 – 2003 and gave up on the Task Force in November. Her impression from having been at the meetings where Parks and Recreation and the Conservation Commission were represented is that this was going to be an example of saying something will be done, but in fact, nothing will be done. She felt there was doubt that 1 or 2 places could be agreed to much less the 14 that were probably needed to make it work effectively. She also wasn't sure if the aldermen had the authority to tell Parks and Recreation and the Conservation Committee that they had to give off-leash land. She felt that groups who came forward had almost no incentive to do this because if not enough spaces were identified, they run the risk of being overrun and become an example of why this doesn't work. She was in favor of the Brookline model and she believes having dogs off-leash is a privilege. She believes it's a process of education and transition and will likely take five years to get this working well.

Ted Kuklinski of 24 Henshaw Terrace said he felt there would be a lot of debate on this issue and it won't be an easy thing to pass. He appreciated all the work the Task Force did and hopes it will all come to fruition.

Chances/Problems of Implementation

Ald. Albright said that Parks and Recreation and the Conservation Commission have a say over what happens with their land. This could pass and the landowners may not be happy about it. Ald. Johnson wondered if there was actually a chance that this could work in terms of Parks and Rec. and the Conservation Commission.

Norm Richardson of the Conservation Commission said that there were a number of members of the mind that their charge is to protect the wildlife values of the parks and that it's inimicable with use of these parks by off-leash dogs. He said he wouldn't have invested 2 years of his time if he felt that was true. The Commission made some good progress in looking at transition times – how do we get from the current situation to a more desired state. He felt that the Commission ultimately recognized the value of an end state where there's a potential benefit. One reason they didn't decide on an open policy is because concerns can be site specific. The Conservation Commission will want to listen to appeals and site specific regulations for individual parks. Different times of the year have different meaning in terms of breeding and when small mammals are out and, times that are convenient for small children are not necessarily times they'd want dogs off leash. They are open to listening to arguments and approaching it on a site specific basis.

President Baker said that he thought the Conservation Commission would have been a nonstarter in this process and was pleased to find there was a willingness to consider different times and places with an awareness of the background pieces described above.

Ald. Hess-Mahan asked the Task Force if the ordinance set a bare minimum of parks/locations for this to go forward, would that make this more possible. He asked them to consider this. Dick Tucker said that Parks and Recreation and the Conservation Commission reaction to them was that they could set a maximum number of parks, and they wanted to start very small, not broadly. Ann Dorfman's suggestion, he felt, was the ideal to support the status quo and fight little battles as they come up rather than start from nothing and build one park at a time. He didn't know what the legislative power was to require Conservation Commission or Parks and Recreation to provide land. Ms. Dorfman's model was idealistic and potentially desirable but given the status quo and the ownership and management of the land, he felt it was going to be tough to start out that way. He said many of the properties are being used by off leash dogs everyday but there's nothing to be done about it because there's no one to enforce it. John O'Connell is an effective, professional animal control officer but he can't be sure if this will make his job easier or not.

Ald. Johnson said that she and vice chair Ald. Hess-Mahan will make a decision on this on whether a public meeting/hearing would be useful.

Motion to hold was approved by the Committee.

#346-99 ALD. SANGIOLO requesting creation of an ordinance that would prohibit dogs (leashed or unleashed) from all elementary school playgrounds.

ACTION: **HELD 5-0 (Ald. Sangiolo not voting)**

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#209-07 HIS HONOR THE MAYOR requesting an appropriation in the amount of \$124,106 from E-rate Receipts for the purpose of purchasing hardware necessary to implement the School Department Wireless Technology Plan for the elementary level. [06-12-07 @ 3:11 PM]

ACTION: **APPROVED 4-0 (Ald. Lipof, Sangiolo not voting)**

NOTE:

Use of Funds

Dr. Young said that the request from E-Rate is routine. They do this each year and are aggressive in trying to access any kind of reimbursements or grants that can come to them. Approximately the same amount of money each year is requested. They are planning on putting the money into computers and wireless technology and feel it is a companion to the budget initiative of implementing a wireless network for the middle schools. Dr. Young pointed out that the elementary schools have some wireless capability but it is not a robust network and has some dead spots. Laptops are now the computers of choice and this is a basic tool to help the teachers and students do their work. Ms. Zaleznik said that there is an ability to do some kinds of repairs and re-sets to the system from a central place and since there aren't really enough people to go out and fix problems, this would be more expeditious. This is a city wide network and the

different teachers can email and exchange information with each other. It will be a secure network so those who are not authorized to use it will not have access.

Process in Getting Funds

Ald. Hess-Mahan asked if the school's needed to do anything in particular in order to get the money. Ms. Zaleznik said that they had to fill out the paperwork and Newton was very good at getting the most they could out of this process. A consulting firm offered to analyze their E-Rate process and found there really was no room for improvement.

Ald. Merrill moved for approval and the Committee voted in favor.

#422-06 ALD. HESS-MAHAN requesting creation of an ordinance prohibiting the use of portable gasoline-powered leaf blowers within the City limits.

ACTION: **HELD 4-0 (Ald. Lipof, Sangiolo not voting)**

NOTE:

Brief Overview

Ald. Hess-Mahan said this issue grew out of a lot of concerns by members of the community who were affected by the noise generated by leaf blowers. He said it was the single most noise driven complaint he hears more than any others; they are incredibly loud at 90-100 decibels. He finds that the men using the leaf blowers are usually not wearing ear protection and the engines are huge and near the operator's ears. They are posing a significant health risk to these operators.

Results of Studies

Ald. Hess-Mahan referred to the literature that was included with the agenda: California ordinances of this nature that really work; and also a study by Orange County about the pollution aspects of the leaf blowers. What astonished Ald. Hess-Mahan was the amount of air pollution that was generated by these machines. Running a car for 17 hours will not produce as much pollution as running a leaf blower for one hour. In California they found limiting the use of leaf blowers did not cause financial problems for landscaping companies and they found alternatives that worked very well. Effectiveness is pretty low as they move debris around but don't actually get rid of the debris. They also blow away topsoil. Vacuums are much more effective, quieter, and produce much less pollution. Studies have shown that leaf blowers may take more time to finish the job than people using rakes. Also, as mentioned before, they pose an alarming health risk for the operators due to the high decibel levels and the emissions from the engine being so dense and in such close proximity to them (as the machines are strapped to their backs).

Problems Faced by Citizens

Ald. Hess-Mahan pointed out that there are many people in Newton who work at home and find the noise extremely disruptive. Also, people who work nights and need to sleep during the day have a similar problem. There is also the issue of noncompliance by landscaping companies starting work before the legal times, especially on the weekends. Several members of the Committee related personal stories of noise, health, and noncompliance problems.

Changes in Ordinance

Ald. Hess-Mahan said that trimmers should be included perhaps with this item. They are starting to come out with larger engines and becoming even noisier. President Baker suggested a revision to the ordinance would be adequate to cover this as well. Ald. Johnson and Ald. Baker suggested having language for the ordinance especially if a public hearing will be held. Ald. Johnson said this hasn't been included in the noise ordinance because this includes an issue of air pollution in addition to noise pollution. She also said that a public hearing will be held for this item.

More Documentation

Ald. Hess-Mahan indicated that he had more material on this subject and would be happy to share it with anyone who was interested. He just didn't want to inundate the Committee by including it all in the packet

Motion to hold was made and approved by the Committee.

#329-05 ALD. JOHNSON & ALD. ALBRIGHT requesting that the **Noise Ordinance** be revised and updated to better reflect the noise problem being faced by the City.

ACTION: **HELD 4-0 (Ald. Lipof, Sangiolo not voting)**

NOTE:

Brief Background

Ald. Johnson said that she had worked on a problem in Newtonville with rock crushing. It was clear that the noise ordinance was not going to solve the problem and it took a number of years to solve that problem. The other problem she had experienced was the noise of air conditioners, especially during the night. Landscaping and yard work noise was also a big issue.

Progress of Changes in the Ordinance

She created a loosely configured group with Ed Aucoin, Marie Lawlor, Brooke Lipsitt, George Mansfield, Ted Hess-Mahan, Susan Albright, and John Lojek. They've done extensive research and checked other ordinances locally and nationally on dBA levels and what is considered safe and appropriate and will use that information in creating a noise ordinance which works better for the citizens of the City.

Lt. Ed Aucoin of the Newton Police Department said that they started looking at the ordinance because of the rock crusher issue. He is in charge of enforcing the noise ordinance and any officers that go out for it are under his supervision. He started to realize that there were certain issues within the ordinance that made it very difficult for them to enforce and that there were things that need to be changed. The air conditioner issue came up which led them to look at other noise issues and it brought them to this point.

Ald. Johnson went on to say that the document has been worked on over the last couple of years and is still a work in progress, but somehow the rock crushing piece had been left out. She will be working with Marie Lawlor to get it put back in there. Some of the suggestions for putting this piece back in are not included in the current redlined version and are as follows:

1. Specifically add the phrase “equipment for recycling, screening, separating, or any other processing of soil, rocks, concrete, asphalt or other raw material” to Section (g)(2) with a maximum decibel level attached.
2. Specifically include such equipment in Section (g)(4) with currently include “...jack hammers, pavement breakers, pile drivers, rock drills, provided that effective noise barriers are used to shield nearby areas from a condition of noise pollution. The time limitations contained in subsection (f)(2) shall still apply.”
3. Add a catch-all phrase in Section (g)(2) which would set a maximum level of 90 for “Any other construction equipment not specifically listed in Section (g)(4) below.

Ald. Johnson said there will be a public meeting/hearing on this item.

Motion to hold was made and approved by the Committee.

REFERRED TO PROGRAMS & SERVICES AND FINANCE COMMITTEES

#224-06(4B) HIS HONOR THE MAYOR requesting an appropriation in the amount of \$30,000 from Budget Reserve for the purpose of supplementing the salary account of the Election Department to compensate Mr. Peter Koutoujian for his service as temporary Acting Department Head.

Programs & Services approved as amended @ \$15,000 (224-06(4A)) and held \$15,000 (224-06(4B)) on 10/18/06, Finance approved as amended @ \$15,000 (224-06(4A)) and held \$15,000(224-06(4B)) on 10/23/06, Board Approved as amended @ \$15,000 on 11/6/06

NOTE: *The Chairman has indicated that she will request a Suspension of the Rules at the July 9, 2007 Full Board Meeting to hold item #224-06(4B).*

Re-appointment by His Honor the Mayor

#204-07 STEPHEN J. SMALL, 822 Commonwealth Avenue, Newton Centre, re-appointed as a member of the Newton Commonwealth Golf Course Foundation for a term to expire on December 31, 2009 (60 days: 8-17-07). [06-07-07 @ 1:33pm]

ACTION: **APPROVED 4-0 (Ald. Lipof, Sangiolo not voting)**

NOTE: President Baker said that Stephen Small is a national authority on land conservation and is pleased to see him recommit to this position.

Motion to Adjourn.

Respectfully Submitted,

Marcia Johnson, Chairman